

**Subcommittee on Civil Service and Agency Organization
Committee on Government Reform
U.S. House of Representatives
April 1, 2003**

**Testimony Presented on behalf of the National Commission on
the Public Service**

Paul A. Volcker, Chairman

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Chairman Davis, Congressman Davis and Members of the Committee, thank you for inviting the National Commission on the Public Service to testify at this hearing on compensation reform for federal employees, including the pay-for-performance recommendations made by the Commission. Commission Chairman Paul A. Volcker and the Commission Members appreciate this Subcommittee's interest in their findings and recommendations.

As the Commission Report says, "Proper adjustment of public service compensation is a conundrum as old as the Republic." Recognizing the important role of compensation in addressing the challenges facing the federal government, the Commission examined federal pay in all three branches and at all levels. It looked at the way federal pay is currently set, and considered the appropriateness of various non-governmental comparisons. In the end, the Commissioners developed some overarching principles that they believed should guide pay decisions and also addressed the issue in a series of recommendations.

Three principles are suggested by the Commission:

First, government pay must reflect current market conditions if government is to attract and retain the workforce it needs to perform its responsibilities.

Second, the relevant "market" for most of the federal workforce should be comparable jobs and abilities in the general workforce. The relevant "market" for government's senior leadership should be positions demanding comparable responsibility and capabilities in the non-profit workforce.

Third, pay should be tied to performance.

The Commission was aware that studies by the Congressional Budget Officeⁱ, the Office of Personnel Managementⁱⁱ and private organizations show that pay disparity with the private sector is not uniform across all government positions. The recently released OPM 2002 Survey of Federal Employees indicates that 64% of federal civilian employees are "satisfied" with their pay, and 56% categorize it as "good." Yet 34% said they are considering leaving the federal service, and only half of that group is leaving to retire. And problems related to pay are well known: agencies have to be

given special pay authority to attract workers with specialized skills; pay compression has resulted in nearly 70% of the SES receiving the same pay; federal judges – whose appointments are for a lifetime – are resigning in growing numbers, with many citing continuing loss of buying power as the reason.

While pay is not the sole reason federal employees come to work, recent surveys conducted by Paul Light, Director of the Center for Public Service at the Brookings Institution, reveal it as a significant inducement. When asked, “Why do you come to work every day,” 41% listed pay as their sole reason.ⁱⁱⁱ

Although the Commissioners recommended that pay be based on market comparisons, they believed that different markets should be used, depending on the position. For the majority of federal workers, the private, for-profit sector was identified as the appropriate market. The Commission recommended that Congress establish policies that permit agencies to determine the specific relevant market for their employees and to adjust their compensation to its exigencies.

Concurrently, the Commissioners recommended that the existing classification system and the general schedule be terminated. As the Director of the Office of Personnel Management so clearly articulated in her White Paper on federal pay modernization, they were designed for a workforce that no longer exists. The Commission recommended that a “broad-band” system be adopted as the government’s default system. In the alternative, an agency would adopt a system which best supported its own mission.

The Commission suggested a different compensation standard for senior government positions, such as federal judgeships, executives and members of Congress. There, the Commission looked toward comparable positions in the private non-profit sector as a guide. Associate Justice Stephen Breyer suggested this standard to the Commission when he testified in July of 2002. The Commission staff subsequently developed a comparison of executive pay for several categories of non-profit entities. These included universities as well as think tanks, labor unions, public interest groups and foundations of relatively significant size. In every case, the compensation of the leadership of these non-profit institutions was notably higher than that of the senior leadership of the federal government. I have included the resulting chart with this testimony for the Subcommittee’s information.

Chief Justice William Rehnquist and Associate Justice Breyer took the unusual step of offering public testimony at the Commission’s hearings last year. They, and leaders of the federal judiciary across the board, are deeply concerned about the effect of federal judicial pay stagnation on the administration of justice. They noted that between 1969 and 1999, real pay for federal trial court and appellate court judges declined by about 25%. During the same period of time, the real pay of the average American worker increased by 12.4%. I have provided the Subcommittee with copies of charts prepared

by the Administrative Office of the U.S. Courts that illustrate this data. The first shows this change in real pay between 1969 and 1999. The second is a depiction of comparative gains and losses in pay relative to inflation from 1994 and 2000 for selected categories of U.S. workers. It shows that every category gained relative to inflation, except for federal judges and members of Congress. The gain in national average wages was approximately 14%, while the decline for Member of Congress and Federal Judges was nearly 10%.

The value of the constitutional grant of a life term to the federal judiciary is undermined when judges feel they must leave the bench to sustain their income. As Justice Breyer noted, the framers deliberately connected judicial compensation and judicial independence. Chief Justice Rehnquist cited data collected by the Administrative Office of the United States Courts: More than 70 Article III judges left the bench between 1990 and May 2002, whereas during the 1960s, only a handful of Article III judges retired or resigned. When the Administrative Office informally surveyed judges who had recently left the bench, the need for additional compensation for items such as college tuition or living expenses in high-cost cities was repeatedly cited as the reason.

Another area where pay has been effectively capped is the Senior Executive Service. This cadre of senior executives was established to provide the government with a skilled leadership, without all the traditional civil service protections, but with the ability to be rewarded for excellent performance. As a result of SES pay being tied to Executive Level III pay, and the Executive Level pay effectively capped by Congressional pay, we have reached the point now where nearly 70% of the SES earns the same compensation. In his FY 2004 budget the President has recommended increasing the cap for the SES by raising the top SES pay to that of Executive Level II, which would provide some correction.

The Commission also addressed the compensation of political appointees. It recognized that theirs is a somewhat different case, in that they come into government for a relatively short period, often with personal wealth, and can later benefit from the prestige of having had a senior political position. However, they did not feel these were sufficient or even appropriate justification for pay that is substantially lower when compared with those with similar responsibilities, even in the non-profit sector.

Congress began the work of easing the cap on federal pay in 1999 when it raised the President's salary from \$200,000 to \$400,000 (P.L. 106-58). The Commission recommends that Congress immediately increase the pay of these other "capped" senior government officials, including federal judges and Members of Congress themselves. Should Congress not want to give itself this level of increase, the Commission asked it to de-couple its own pay from that of federal executives and judges. But I will repeat for the record the Commissioner's statement that: "Few democracies in the world expect so much from their national legislators for so little in compensation."

Two additional areas addressed by the Commission bear on the issue of compensation flexibility: First, is the importance of increased and careful oversight, by Congress and responsible executive branch leadership, to assure that the new system and personnel flexibilities stay on track. Concern is sometimes expressed that those in charge will abuse a system with flexibility. Careful and ongoing oversight, including statutory assurance of merit principles of government employment, can ease concerns and prevent that from occurring.

Second, and related, is the importance of ongoing training. Managers and executives who receive appropriate training throughout their careers are much more certain to be good managers and leaders. In fact the Commission believed that adequate and consistently funded training for all federal employees was of great importance. Training is certainly an area where penny wise is pound-foolish.

There is one point I want to note in describing the Commission's approach to these issues. As my testimony indicates, the Commission focused to a greater extent on the pay of top government officials than it did on the pay of the broad federal workforce. There were two important reasons for the emphasis on leadership pay. First, there is a demonstrable critical challenge to effective governance when the leadership of government is significantly underpaid. Second, executive level pay caps are currently a barrier to pay reform, including pay for performance, for the entire federal workforce.

On the issue of performance, the Commission's report repeatedly stresses the important role the Commissioners believe performance should play in the awarding of pay. The experience of the Senior Executive Service illustrates this, as well as my previous point: The SES was established in 1978 with a rewards and incentive system where compensation would be closely tied to performance. Those who performed at the highest levels were supposed to get bonuses and merit awards equal to a substantial portion of their annual pay. Unfortunately, the reward system has been inadequately funded and today, the pay cap has resulted in 70% of the SES receiving the identical pay.

Witnesses at the Commission hearings referred to the existing federal rewards system as "peanut butter." This is the name federal employees have given to the practice of spreading the funds available for performance rewards broadly across the workforce to make up for lagging base pay.

In addition to inadequate funding of awards, the pay cap and the peanut butter syndrome, a fourth barrier to utilizing existing performance incentives is the fact that like the residents of Lake Wobegon, everyone working for the federal government performs above average. In fact, the performance ratings of most of the federal workforces are in the superior category. Of the 700,000 employees who were rated in 2001 using a pass/fail system, 93% passed and just .06% failed. The rest were not rated. Of the 800,000 federal employees who were rated that

year using a five-point system, 43% were rated as “outstanding,” 28% as “exceeds fully successful,” 18% as “fully successful” and just 0.55% as either “minimally successful” or “unacceptable.”^{iv}

As a result of the fact that federal pay is not based on performance, and the reality that performance incentives now in law are ineffective, the vast majority of federal pay increases have no relationship to performance. In recommending adoption of pay systems which reward excellence in performance the Commission, led by Chairman Paul Volcker, would again stress the importance of oversight by both the leadership of the Executive Branch and the Congress to make sure the systems are implemented fairly and pursuant to the government’s established merit principles.

Thank you again for inviting the National Commission on the Public Service to share its findings and recommendations with the Subcommittee.

ⁱ Congressional Budget Office, *Summary of CBO’s Work on Employee Pay and Benefits*, November 6, 2002

ⁱⁱ Office of Personnel Management, *A Fresh Start for Federal Pay: The Case for Modernization*, (OPM White Paper, April 2002

ⁱⁱⁱ Paul C. Light, *The Troubled State of the Federal Public Service*, Washington: Brookings Institution, June 27, 2002, p.6

^{iv} Ibid, p.20